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Richard M. Adler

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1 UNITED STATES PATENT AND TRADEMARK OFFICE

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4 BEFORE THE BOARD OF PATENT APPEALS
5 AND INTERFERENCES
6

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8 *Ex parte* RICHARD M. ADLER
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11 Appeal 2009-014248
12 Application 10/091,859
13 Technology Center 3600
14

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16 Before MURRIEL E. CRAWFORD, ANTON W. FETTING, and
17 JOSEPH A. FISCHETTI, *Administrative Patent Judges*.
18 FETTING, *Administrative Patent Judge*.

19 DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE²

Richard M. Adler (Appellant) seeks review under 35 U.S.C. § 134 (2002) of a final rejection of claims 64-121, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b) (2002).

The Appellant invented a way of modeling and analyzing complex strategic decisions (Specification 1:7-8).

An understanding of the invention can be derived from a reading of exemplary claims 106, 115, and 64, which are reproduced below [bracketed matter and some paragraphing added].

106. A computer-implemented method of constructing a decision-support application for a decision domain, the method comprising:

(a) constructing a decision model
of the decision domain
for creating a plurality of scenarios in the decision domain,

² Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed February 22, 2007) and Reply Brief ("Reply Br.," filed August 4, 2009), and the Examiner's Answer ("Ans.," mailed July 6, 2009), and Final Rejection ("Final Rej.," mailed July 14, 2006).

1 the decision model comprising a plurality of decision-
2 model entity classes;
3 (b) creating specifications
4 for linking the plurality of decision-model entity classes
5 to a decision-support simulator framework;
6 (c) populating an application database
7 for the decision domain
8 based on the plurality of decision-model entity classes;
9 and
10 (d) compiling
11 the application database and
12 the specifications
13 to generate the decision-support application,
14 wherein the decision-support application is executable
15 under the decision- support simulator framework.

16 115. A computer-implemented method of supporting decision-
17 making for a decision domain, the method comprising:
18 (a) generating,
19 based on user input,
20 a plurality of alternative scenarios
21 representing possible evolutions
22 of a baseline scenario;
23 (b) generating,
24 based on user input,
25 a plurality of strategies
26 for influencing the alternative scenarios;
27 (c) simulating outcomes of each of the strategies
28 for each of the alternative scenarios over time; and
29 (d) providing output data,

1 based on the simulated outcomes,
2 to permit comparison of the simulated outcomes
3 for each of the strategies.

4 64. A computer-implemented method for supporting decision-
5 making, the method comprising:

6 (a) constructing a model of a decision domain

7 for creating a plurality of scenarios in the decision
8 domain,

9 the model constructed based on

10 a received selection of a predefined model

11 from among a plurality of predefined models of
12 decision domains;

13 (b) receiving user-specified

14 (i) baseline scenario parameters defining a baseline
15 scenario,

16 (ii) scenario parameters defining one or more alternative
17 scenarios, and

18 (iii) decision parameters defining one or more candidate
19 decisions, wherein:

20 each scenario depicts a situation in the decision domain

21 for which one or more candidate decisions
22 potentially affecting the corresponding scenario
23 parameters

24 could be adopted,

25 each of the one or more alternative scenarios represents a
26 possible future

27 into which the baseline scenario could evolve, and

28 each candidate decision represents an intervention

29 for influencing the alternative scenario parameters
30 defining the one or more alternative scenarios;

31 (c) simulating,

1 for one or more future time instants,
2 each of the one or more alternative scenarios as
3 influenced by
4 (i) each candidate decision represented by the
5 candidate decision parameters and
6 (ii) parameters characterizing assumptions in
7 alternative scenarios; and
8 (d) for each candidate decision represented by the candidate
9 decision parameters,
10 outputting simulation results
11 based on the alternative scenario parameters
12 corresponding to the simulated alternative
13 scenarios
14 at one or more future time instants.

15 The Examiner relies upon the following prior art:

Clarisse	US 5,247,651	Sept. 21, 1993
Watanabe	US 5,761,486	June 2, 1998
Steinman	US 5,850,538	Dec. 15, 1998
Huang	US 5,953,707	Sept. 14, 1999
Ball	US 6,212,502 B1	Apr. 3, 2001
Eder	US 6,321,205 B1	Nov. 20, 2001
Kramer	US 6,327,574 B1	Dec. 4, 2001
Honarvar	US 6,405,173 B1	June 11, 2002
El Ata	US 6,990,437 B1	Jan. 24, 2006
Bonabeau	US 2001/0053991 A1	Dec. 20, 2001
Kim	US 2002/0065701 A1	May 30, 2002
Eicher	US 2002/0099598 A1	July 25, 2002

1 Claim 18 stands rejected under 35 U.S.C. § 112, second paragraph, as
2 failing to particularly point out and distinctly claim the invention.

3 Claims 64-68, 73-81, 89-90, 99-110, 112-116, and 119-121 stand
4 rejected under 35 U.S.C. § 102(e) as anticipated by Eder.

5 Claims 69 and 70 stand rejected under 35 U.S.C. § 103(a) as
6 unpatentable over Eder and Honarvar.

7 Claims 71, 72, and 111 stand rejected under 35 U.S.C. § 103(a) as
8 unpatentable over Eder and Kramer.

9 Claim 82 stands rejected under 35 U.S.C. § 103(a) as unpatentable over
10 Eder and Huang.

11 Claims 83-85, 87, and 117 stand rejected under 35 U.S.C. § 103(a) as
12 unpatentable over Eder.

13 Claim 86 stands rejected under 35 U.S.C. § 103(a) as unpatentable over
14 Eder and Kim.

15 Claims 88 and 93 stand rejected under 35 U.S.C. § 103(a) as
16 unpatentable over Eder and Steinman.

17 Claims 91, 95, and 96 stand rejected under 35 U.S.C. § 103(a) as
18 unpatentable over Eder and Bonabeau.

19 Claim 92 stand rejected under 35 U.S.C. § 103(a) as unpatentable over
20 Eder and Eicher.

21 Claim 94 stands rejected under 35 U.S.C. § 103(a) as unpatentable over
22 Eder and Ball.

1 Claim 97 stand rejected under 35 U.S.C. § 103(a) as unpatentable over
2 Eder and Watanabe.

3 Claim 98 stands rejected under 35 U.S.C. § 103(a) as unpatentable over
4 Eder and Clarisse.

5 Claim 118 stands rejected under 35 U.S.C. § 103(a) as unpatentable over
6 Eder and El Ata.

7 ISSUES

8 The issue of anticipation turns primarily on whether the claims require
9 plural scenarios, and if so, whether Eder describes such. Other limitations
10 the issue of anticipation turns on are described in the Analysis section *infra*.
11 The issues of obviousness turn primarily on whether the secondary
12 references merely demonstrate evidence of the knowledge of one of ordinary
13 skill, or in the alternative describe implementation techniques useful for
14 implementing Eder.

15 FACTS PERTINENT TO THE ISSUES

16 The following enumerated Findings of Fact (FF) are believed to be
17 supported by a preponderance of the evidence.

18 *Facts Related to the Prior Art*

19 *Eder*

20 01. Eder is directed to evaluating the probable impact of user-
21 specified or system generated changes in business value drivers on
22 the other value drivers, the financial performance and the future
23 value of a commercial enterprise. Eder 1:18-22.

1 02. Eder's automated system simulated the impact of proposed
2 changes in business operation on the value drivers, the financial
3 performance and the future value of a commercial enterprise that
4 was enabled by a detailed, rigorous evaluation of all the elements
5 of the enterprise that create business value and is capable of
6 generating detailed *simulations* for businesses in new industries.
7 Eder 4:60-67.

8 03. Eder tracks the changes in elements of business value and total
9 business value over time by comparing the current valuation to
10 previously calculated valuations. Eder produces reports provided
11 by traditional accounting systems. Eder 6:43-54.

12 04. Eder's application software controls the performance to
13 calculate the detailed business valuation, extracting data from
14 databases and then storing the data in the application database.
15 The databases contain information regarding historical financial
16 performance, operation management, forecast financial
17 performance, and sales prospects and transactions. The user
18 provides the information the application software requires to
19 determine which data need to be extracted and transferred from
20 the database to the application. Eder 9:41 – 10:14.

21 05. Eder's operation is dependent upon a *scenario* table. If there are
22 changes in value drivers for seeking to understand the probable
23 impact of these changes on the other value drivers, the financial
24 performance and the future value of the enterprise, then Eder
25 iterates the model for convergence of output. Alternatively, Eder's

1 simulation is run in a goal seeking mode. Eder saves the resulting
2 information in the scenario table to display the mid point and the
3 range of estimated future values for the various elements of the
4 enterprise and the changes in value drivers, user-specified or
5 system generated, that drove the future value estimate. Eder 46:46
6 – 47:8.

7 06. Eder checks the growth option definition table information to
8 determine if there are *multiple scenarios* for the growth option
9 being analyzed. If so then the user inputs the *number of scenarios*,
10 *the name of the scenarios and the probability that each scenario*
11 *will occur* for the growth option being valued, which are stored in
12 the growth option definition table in the application database. Eder
13 retrieves the information for the scenario from the growth option
14 scenario table. The forecast information the user provides is saved
15 to the growth option scenario table in the application database. If
16 Eder determines that there are still scenarios that don't have
17 "current" data, then the processing is repeated until all scenarios
18 have "current" data. When all scenarios for the growth option
19 being analyzed have "current" data, Eder calculates the total value
20 of revenue, expense, capital and element of value deductions for
21 each scenario and the weighted average forecast of total growth
22 option revenues, expenditures, capital and element of value
23 deductions for each period by multiplying the forecast revenue,
24 capital and element of value deductions for each scenario by the
25 probability of that scenario realization. Eder 35:13 – 37:20.

07. Eder's Table 1 lists examples of enterprise elements used for valuation. Examples include balance sheet items, employees, vendor relationships, strategic relationships, brand names, and general going concern value. Eder 5:39-6:10

Kramer

08. Kramer is directed to models of consumers, based upon transactional data extracted from structured information received via electronic channels and viewed by the consumer, and the use of those models to aid in presenting targeted content, such as advertising or special offers, in a way that does not compromise the consumer's privacy. Kramer 1:15-21.

09. Kramer describes using report metadata as a technique for entering model data. Kramer 5:46-55.

Huang

10. Huang is directed to supporting management decisions with manufacturing of service supply chains that allows the various decision makers in the supply chain to view the supply chain from their own perspective, obtain information and evaluate decisions concerning past, current and future performance with respect to a diverse set of often conflicting goals. Huang is designed to support managers in understanding the effect of the various decisions that can be made on a supply chain as a whole both currently and into the near future. Huang 1:18-49.

1 *Kim*

2 11. Kim is directed to automating a business process. Kim ¶ 0002.

3 12. Kim describes using XML as the format for storing model data.
4 Kim ¶ 0182.

5 *Steinman*

6 13. Steinman is directed to using priority queues in simulation
7 systems. Steinman 1:12-16.

8 *Eicher*

9 14. Eicher is directed to service supply chains that notify key
10 personnel when key performance measures are violated. Eicher ¶
11 0002.

12 15. Eicher monitors business relationship health through
13 monitoring standard business documents that are exchanged
14 between partners and automatically extracting data that provides
15 insight into that business relationship. Eicher ¶ 0011.

16 16. Eicher is evidence that one can predict and recommend courses
17 of action based on pattern recognition technologies and analytical
18 approaches including statistical algorithms, complex adaptive
19 systems, and other non-linear analytical techniques. Eicher 0137.

20 *Ball*

21 17. Ball is directed to agent or character based user interfaces. Ball
22 1:10-19.

18. Ball is evidence that Bayesian inference techniques are applicable to compound conditional probabilities. Ball 2:30-57.

Watanabe

19. Watanabe is directed to simulating transaction communications between clients and servers. Watanabe 1:8-14.

20. Watanabe is evidence that simulations may be run in real time when the output is needed in real time. Watanabe 3:41-47.

El Ata

21. El Ata is directed to the use of feedback in predictive systems.
El Ata 1:14-24.

22. El Ata describes the utility of feedback to support various levels of abstraction and “what if” analysis in business models. El Ata 3:25-44.

ANALYSIS

Claim 18 rejected under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the invention.

This rejection is summarily affirmed because the Appellant does not contest it.

Claims 64-68, 73-81, 89-90, 99-110, 112-116, and 119-121 rejected under 35 U.S.C. § 102(e) as anticipated by Eder.

Each of independent method claims 64, 106, and 115 construct models and scenarios and use scenario parameters, strategies, and specifications, while populating a database to simulate strategies and scenarios to output

1 results. Independent claims 104, 105, 113, 114, 120, and 121 are system and
2 code in memory analogs of the method claims. As these claims essentially
3 recite business modeling in general and being used to run simulations in
4 particular, the Examiner found that Eder's models that ran such simulations
5 anticipated the claims. Ans. 6-8; 12-13; and 15. See FF 01 - 06. The
6 Appellant argues for each of these claims that Eder only uses a single
7 scenario. Appeal Br. 16-23.

8 The Examiner responds that Eder describes multiple scenarios. Ans. 27-
9 29. The Examiner also responds that in claim 64, step (a) constructs a single
10 model whose purpose may be to create plural scenarios, but whose phrasing
11 does not actually contain a limitation of creating such plural scenarios.
12 Similarly, although the predefined model that is received may be from
13 among plural such models, step (a) does not require selecting from among
14 such plural models. Ans. 27-28. We agree with the Examiner that Eder
15 describes using multiple scenarios. FF 06. This implies the use of multiple
16 domains and models, as each scenario defines a domain and model. We also
17 agree with the Examiner that claim 64 does not require plural scenarios,
18 domains, and models, but merely the capacity for a selection to have been
19 from plural such models, domains, and scenarios. Since a user is free to
20 select any abstraction such as a model, domain, or scenario, such capacity is
21 inherent in any modeling routine as with Eder. Further, Eder's plural
22 scenarios imply plural models and domains for the same reason.

23 The Appellant relies on essentially the same argument for claims 67, 73,
24 and 74. Ans. 26-28.

1 The Appellant argues that Eder fails to describe the dynamic behavior
2 data representing change or interaction in claim 65, limitation (3). Appeal
3 Br. 24. The Examiner found this in the changes in Eder's enterprise
4 elements entity data. Ans. 30. We agree with the Examiner that claim 65
5 merely requires that the data have the capacity to somehow represent change
6 over time and interact with each other. Changes in balance sheet items,
7 employees, brands, and strategic relationships would represent both changes
8 over time and interaction. The Appellant contends the Specification narrows
9 the limitation of claim 65, but limitations from the Specification are not
10 drawn into the claims.

11 The Appellant next argues claim 74, on the basis that Eder fails to
12 describe user specified parameters. The Appellant also repeats the argument
13 regarding plural models and domains from claim 64. The Appellant
14 contends that Eder uses predefined parameters with user specified values.
15 Appeal Br. 28-31. The Appellant points to the variables listed in Eder's
16 Table 1 for this contention. First, we find that these variables are generic
17 rather than specific, referring to balance sheet items generally that would
18 necessarily be populated by the specific user defined balance sheet accounts
19 in use by the user. Second, we find that the phrase "user-specified scenario
20 parameters" encompasses predefined parameters whose values are user
21 specified because the phrase does not limit that manner or degree of user
22 specification.

23 The Appellant next argues claims 75-79, 101, and 103 on the basis that
24 Eder fails to describe a baseline and alternate scenarios. The Appellant also
25 repeats the argument regarding plural domains from claim 64. The
26 Examiner found that these arguments were similar to those in support of

1 claim 64. Ans. 32. We agree with the Examiner that Eder describes plural
2 scenarios, any of which could be considered a baseline, as a baseline is
3 simply a perceptual reference. FF 06.

4 The Appellant next argues claims 100, on the basis that Eder fails to
5 describe graphic time series and histogram charts of scenario attributes. The
6 Appellant also repeats the argument regarding plural models from claim 64.
7 Appeal Br. 38-40. The Examiner responds that claim 100 contains an
8 alternative limitation, in that *only one of limitations (i) and (ii) is required*.
9 Ans. 33. We agree with the Examiner that claim 100 has such an alternative
10 limitation. The Appellant does not contend that the remaining limitation of
11 tabular reports is not described.

12 The Appellant next argues claims 102, 116, 119, on the basis that Eder
13 fails to describe an intervention that is a strategy, plan, investment, or other
14 proposed course of action. Appeal Br. 41-42. The Examiner responded that
15 Eder describes simulating the effect of changes in value drivers, which
16 would effectively test intervention of a strategy that would cause such
17 changes. Ans. 34. We agree with the Examiner that Eder describes altering
18 such value drivers. FF 05. These claims only require influencing a scenario
19 in a desired manner, without specifying how influence is attained. The
20 claims recite examples, including a proposed course of action, which would
21 ultimately result in the influence, but any change in Eder's scenario tables
22 would implicitly be due to some proposed course of action, particularly
23 changes resulting from a goal seeking mode described by Eder.

24 The Appellant next argues claim 110, on the basis that Eder fails to
25 describe an application specific decision model. Appeal Br. 43-44. The

1 Examiner responded that Eder's decision model is specifically designed for
2 the application. Ans. 35. We agree with the Examiner that Eder's decision
3 model is designed to simulate operations with Eder's specific application.
4 As the claim does not specify the nature of being application specific, Eder's
5 decision model is within the scope of the claimed application specific model.

6 The remaining claims in this rejection are not separately argued.

7 *Claims 69 and 70 rejected under 35 U.S.C. § 103(a) as unpatentable over*
8 *Eder and Honarvar.*

9 Claim 70 recites that attributes are permitted to assume values of *any*
10 *one* or more of the following data types: integer or real numbers, symbols,
11 lists, tables, vectors, relationships, interval ranges, free text, and Boolean
12 descriptors. The Appellant argues this means the art must describe all of the
13 enumerated data types. Appeal Br. 48-49. The Examiner responds that
14 claim 70 contains an alternative limitation, in that *only one of the*
15 *enumerated data types is required*. Ans. 36-37. We agree with the
16 Examiner that claim 70 has such an alternative limitation. This rejection as
17 applied to claim 69 is summarily affirmed because the Appellant does not
18 contest it.

19 *Claims 71, 72, and 111 rejected under 35 U.S.C. § 103(a) as unpatentable*
20 *over Eder and Kramer.*

21 These claims recite the use of metadata for the claimed business models.
22 The Appellant argues that Kramer is non-analogous art. Appeal Br. 49-51.
23 The Examiner responds that both Eder and Kramer are oriented toward

1 modeling of business processes. Ans. 37. Kramer describes how such
2 metadata can be used to enter modeling data. FF 09. Clearly entering such
3 data is equally pertinent to Eder, and so Kramer is analogous art.

4 The Appellant also argues that the art fails to recite an automated code
5 generator as in claim 111. Appeal Br. 50. The Examiner responds that
6 Eder's creation of database output necessarily results from generated
7 database queries. Ans. 38. While the use of SQL (Structured Query
8 Language) code or the like is not necessarily absolutely necessary, we agree
9 with the Examiner that one of ordinary skill would have known such a
10 technique was among the more readily performed by virtue of such SQL
11 capacity in most database management systems, and so would have been
12 both predictable and within the skill of such a practitioner. The claim does
13 not further narrow the particular type of code or where in the process such
14 code is generated, so standard SQL queries generated to produce Eder's
15 database output would have been within the scope of the claims.

16 *Claim 82 rejected under 35 U.S.C. § 103(a) as unpatentable over Eder and*
17 *Huang.*

18 Claim 82 recites permitting user entry of one or more scenario
19 parameters and candidate decision parameters by means of one or more
20 graphically-displayed controls. The Appellant repeats the argument
21 regarding alternative scenario parameters with respect to claims 75-79, 101,
22 103, which is equally unpersuasive here. The Appellant also argues that
23 Huang is not analogous to Eder. Appeal Br. 51. As with Kramer and Eder,
24 Huang describes techniques for modeling business data. FF 10. While
25 Huang describes a more narrow form of business in service supply chains

1 and inventory, these forms of business are clearly within the generic forms
2 modeled with Eder, and so Huang is analogous art.

3 *Claims 83-85, 87, and 117 rejected under 35 U.S.C. § 103(a) as*
4 *unpatentable over Eder.*

5 Claim 117 recites the optimal strategy is a strategy that displays superior
6 values of performance metrics across the plurality of alternative scenarios.
7 The Appellant repeats the argument regarding alternative scenario
8 parameters with respect to claims 75-79, 101, 103, which is equally
9 unpersuasive here. Appeal Br. 52.

10 This rejection as applied to claims 83-85 and 87 is summarily affirmed
11 because the Appellant does not contest it.

12 *Claim 86 rejected under 35 U.S.C. § 103(a) as unpatentable over Eder and*
13 *Kim.*

14 Claim 86 recites a common data exchange format that is a comma-
15 delimited spreadsheet export format (CSV) or an extensible markup
16 language (XML) document format. The Appellant argues Kim is non-
17 analogous art. Appeal Br. 53. As with Kramer, Huang, and Eder, Kim
18 describes techniques for modeling business data. FF 11. Thus, Kim is
19 analogous art. Further, Kim merely provides evidence that XML was known
20 to those of ordinary skill to be a common data exchange format, as it was an
21 industry standard. As such, Kim is merely evidence that those of ordinary
22 skill knew it was predictable to use XML with reports and data in Eder.

23

1 *Claims 88 and 93 rejected under 35 U.S.C. § 103(a) as unpatentable over*
2 *Eder and Steinman.*

3 These claims recite applying a parallel discrete-event simulation
4 technique and an event-based simulation technique. The Appellant repeats
5 the argument regarding alternative scenario parameters with respect to
6 claims 75-79, 101, 103, which is equally unpersuasive here. The Appellant
7 also argues one of ordinary skill would not have looked to Steinman for
8 simulation techniques for a financial application as in Eder. Appeal Br. 53-
9 54. We disagree with the Appellant because Eder explicitly recites
10 performing detailed simulations for businesses in new industries. FF 02.
11 Since business is essentially a series of events, the use of Steinman's event
12 priority queues would be pertinent to Eder's simulations. FF 13.

13 *Claims 91, 95, and 96 rejected under 35 U.S.C. § 103(a) as unpatentable*
14 *over Eder and Bonabeau.*

15 This rejection is summarily affirmed because the Appellant does not
16 contest it.

17 *Claim 92 rejected under 35 U.S.C. § 103(a) as unpatentable over Eder and*
18 *Eicher.*

19 Claim 92 recites applying a complex adaptive system or distributed
20 agent simulation technique. The Appellant repeats the argument regarding
21 alternative scenario parameters with respect to claims 75-79, 101, 103,
22 which is equally unpersuasive here. The Appellant also argues that Eder
23 would not be combined with Eicher because Eicher deals with supply-chain
24 management. Appeal Br. 55-56.

We disagree with the Appellant because, as with Huang *supra*, Eicher describes techniques for modeling business data by monitoring business relationship health through monitoring standard business documents that are exchanged between partners and automatically extracting data that provides insight into that business relationship. FF 15. While Huang describes a more narrow form of business in service supply chains and inventory, these forms of business are clearly within the generic forms modeled with Eder, and so Eicher is analogous art. In any event, the Examiner relied on Eicher for no more than evidence that one can predict and recommend courses of action based on pattern recognition technologies and analytical approaches including statistical algorithms, complex adaptive systems, and other non-linear analytical techniques. FF 16. Such recommendations would be of particular known use to Eder's models.

Claim 94 rejected under 35 U.S.C. § 103(a) as unpatentable over Eder and Ball.

Claim 94 recites using a Bayesian inference technique to compound conditional probabilities. The Appellant repeats the argument regarding alternative scenario parameters with respect to claims 75-79, 101, 103, which is equally unpersuasive here. The Appellant also argues that Eder would not be combined with Ball because Ball deals with computer interfaces. Appeal Br. 56-57.

We disagree with the Appellant. Ball is directed to the art of user interfaces for computer systems, which are clearly required by Eder. FF 17. Thus, Ball describes implementation techniques that would be applicable to Eder. Further, Ball is no more than evidence that one of ordinary skill knew

1 the applicability of Bayesian inference techniques to compound conditional
2 probabilities. FF 18.

3 *Claim 97 rejected under 35 U.S.C. § 103(a) as unpatentable over Eder and*
4 *Watanabe.*

5 Claim 97 recites permitting a user to monitor the progress of the
6 simulation in real time. The Appellant repeats the argument regarding
7 alternative scenario parameters with respect to claims 75-79, 101, 103,
8 which is equally unpersuasive here. The Appellant also argues that Eder
9 would not be combined with Watanabe because Watanabe deals with
10 simulating a computer network. Appeal Br. 57-58.

11 We disagree with the Appellant. Watanabe is directed to the art of
12 simulating transaction communications for computer systems. FF 19. Thus,
13 Watanabe describes simulation implementation techniques that would be
14 applicable to Eder. Further, Watanabe is no more than evidence that one of
15 ordinary skill knew that simulations may be run in real time when the output
16 is needed in real time. FF 20.

17 *Claim 98 rejected under 35 U.S.C. § 103(a) as unpatentable over Eder and*
18 *Clarisse.*

19 This rejection is summarily affirmed because the Appellant does not
20 contest it.

21 *Claim 118 rejected under 35 U.S.C. § 103(a) as unpatentable over Eder and*
22 *El Ata.*

23 Claim 118 recites (e) changing and refining the plurality of strategies
24 based on comparisons of the strategies and the projected outcomes of the

1 strategies; (f) updating the alternative scenarios based on the simulated
2 outcome of the selected optimal strategy; and (g) simulating results of each
3 of an updated plurality of strategies based on the updated alternative
4 scenarios. The Appellant repeats the argument regarding alternative scenario
5 parameters with respect to claims 75-79, 101, 103, which is equally
6 unpersuasive here. The Appellant also argues that Eder would not be
7 combined with El Ata because El Ata deals with design of optimal
8 architectures. Appeal Br. 58-59.

9 We disagree with the Appellant. El Ata is directed to the art of
10 predictive systems as with Eder. FF 21. Thus, El Ata describes predictive
11 implementation techniques that would be applicable to Eder. The Appellant
12 also argues that El Ata's feedback loop does not perform the steps in claim
13 118. We disagree with the Appellant. El Ata describes the utility of
14 feedback to support various levels of abstraction and "what if" analysis in
15 business models. FF 22. The steps in claim 118 are no more than iterative
16 operation of Eder's simulation. El Ata's feedback for plural simulations
17 implies such iterations.

18 CONCLUSIONS OF LAW

19 Rejecting claim 18 under 35 U.S.C. § 112, second paragraph, as failing
20 to particularly point out and distinctly claim the invention is proper.

21 Rejecting claims 64-68, 73-81, 89-90, 99-110, 112-116, and 119-121
22 under 35 U.S.C. § 102(e) as anticipated by Eder is proper.

23 Rejecting claims 69 and 70 under 35 U.S.C. § 103(a) as unpatentable
24 over Eder and Honarvar is proper.

1 Rejecting claims 71, 72, and 111 under 35 U.S.C. § 103(a) as
2 unpatentable over Eder and Kramer is proper.

3 Rejecting claim 82 under 35 U.S.C. § 103(a) as unpatentable over Eder
4 and Huang is proper.

5 Rejecting claims 83-85, 87, and 117 under 35 U.S.C. § 103(a) as
6 unpatentable over Eder is proper.

7 Rejecting claim 86 under 35 U.S.C. § 103(a) as unpatentable over Eder
8 and Kim is proper.

9 Rejecting claims 88 and 93 under 35 U.S.C. § 103(a) as unpatentable
10 over Eder and Steinman is proper.

11 Rejecting claims 91, 95, and 96 under 35 U.S.C. § 103(a) as
12 unpatentable over Eder and Bonabeau is proper.

13 Rejecting claim 92 under 35 U.S.C. § 103(a) as unpatentable over Eder
14 and Eicher is proper.

15 Rejecting claim 94 under 35 U.S.C. § 103(a) as unpatentable over Eder
16 and Ball is proper.

17 Rejecting claim 97 under 35 U.S.C. § 103(a) as unpatentable over Eder
18 and Watanabe is proper.

19 Rejecting claim 98 under 35 U.S.C. § 103(a) as unpatentable over Eder
20 and Clarisse is proper.

21 Rejecting claim 118 under 35 U.S.C. § 103(a) as unpatentable over Eder
22 and El Ata is proper.

DECISION

To summarize, our decision is as follows.

- The rejection of claim 18 under 35 U.S.C. § 112, second paragraph, as failing to particularly point out and distinctly claim the invention is sustained.
- The rejection of claims 64-68, 73-81, 89-90, 99-110, 112-116, and 119-121 under 35 U.S.C. § 102(e) as anticipated by Eder is sustained.
- The rejection of claims 69 and 70 under 35 U.S.C. § 103(a) as unpatentable over Eder and Honarvar is sustained.
- The rejection of claims 71, 72, and 111 under 35 U.S.C. § 103(a) as unpatentable over Eder and Kramer is sustained.
- The rejection of claim 82 under 35 U.S.C. § 103(a) as unpatentable over Eder and Huang is sustained.
- The rejection of claims 83-85, 87, and 117 under 35 U.S.C. § 103(a) as unpatentable over Eder is sustained.
- The rejection of claim 86 under 35 U.S.C. § 103(a) as unpatentable over Eder and Kim is sustained.
- The rejection of claims 88 and 93 under 35 U.S.C. § 103(a) as unpatentable over Eder and Steinman is sustained.
- The rejection of claims 91, 95, and 96 under 35 U.S.C. § 103(a) as unpatentable over Eder and Bonabeau is sustained.
- The rejection of claim 92 under 35 U.S.C. § 103(a) as unpatentable over Eder and Eicher is sustained.

- 1 • The rejection of claim 94 under 35 U.S.C. § 103(a) as unpatentable
2 over Eder and Ball is sustained.
- 3 • The rejection of claim 97 under 35 U.S.C. § 103(a) as unpatentable
4 over Eder and Watanabe is sustained.
- 5 • The rejection of claim 98 under 35 U.S.C. § 103(a) as unpatentable
6 over Eder and Clarisse is sustained.
- 7 • The rejection of claim 118 under 35 U.S.C. § 103(a) as unpatentable
8 over Eder and El Ata is sustained.

9 No time period for taking any subsequent action in connection with this
10 appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R.
11 § 1.136(a)(1)(iv) (2007).

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13 AFFIRMED

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